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CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SYLVIA SCOTT GIBSON,
Plaintiff,
vs.
CAFÉPRESS.COM, INC.
Defendant

CV 09

1410

)
) COMPLAINT FOR:
) 1. COPYRIGHT INFRINGEMENT
) 2. UNFAIR COMPETITION
)
) DEMAND FOR JURY TRIAL
)
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COMPLAINT FOR COPYRIGHT INFRINGEMENT

1 THE PARTIES

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3 1. Plaintiff Sylvia Scott Gibson is a natural person with a
4 residence in Riverside County, California.

5 2. Defendant CaféPress.com, Inc. is a Delaware Corporation
6 with a principle place of business in San Mateo County,
7 California.

8
9 JURISDICTION AND VENUE

10 3. This Court has jurisdiction over the subject matter of
11 this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

12
13 4. This Court has personal jurisdiction over all the
14 Defendants by virtue of their transacting, doing, and soliciting
15 business in this District, and because a substantial part of the
16 relevant events occurred in this District and because a
17 substantial part of the relevant events occurred in this
18 District.

19
20 CAUSES OF ACTION

21
22 Count I - Copyright Infringement

23 5. Sylvia Scott Gibson (Plaintiff or Ms. Gibson) is an
24 author of the book with original material entitled: "Latawnya
25 the Naughty Horse Learns to say 'No' to Drugs"
26 (hereinafter "*Latawnya Book*", see Exhibit 1).

27 6. Ms. Gibson registered and the United States Copyright
28 Office granted, Copyright Registration TX 393-842 for the

COMPLAINT FOR COPYRIGHT INFRINGEMENT

1 *Latawnya Book* (attached as Exhibit 2) with an effective
2 registration date of November 6, 1989. Ms. Gibson is the owner
3 of all rights for *Latawnya* and derivative works thereof.

4 7. The *Latawnya Book* was published in July, 1991 and was
5 commercially sold in book form with both text and illustrations.

6 8. The *Latawnya Book* is a commercially successful
7 publication.

8 9. Cafépress.com, Inc. is a manufacturer of novelty
9 products with offices in San Mateo, California.

10 10. Cafépress.com, Inc. operates a manufacturing facility
11 for these products that is located in Louisville, Kentucky.

12 11. On good faith and belief, the Cafépress.com website
13 allows third parties (hereinafter "Cafépress.com Partners") to
14 create on-line shops. These on-line shops allow the
15 Cafépress.com Partners to sell goods, such as T-Shirts, Coffee
16 Mugs, and Stickers, with text and images imprinted on the goods
17 that have been provided by the Cafépress.com Partners.

18 12. On good faith and belief, representations are made to
19 the Cafépress.com Partners that they can earn upwards of \$
20 100,000 per year by having an on-line shop. A portion of the
21 revenue that is generated by Cafépress.com is allocated between
22 Cafépress.com and the Cafépress.com Partners.

23 13. CaféPress.com, Inc. has access to copyrighted material
24 by virtue of their Cafépress.com Partners who supply such
25 material to CaféPress.com, Inc. as part of their joint venture
26 to sell goods on the Cafépress.com website.

27 14. In early 2008, Ms. Gibson became aware that the goods
28 manufactured by CaféPress.com, Inc. were being sold that

1 reproduced, almost verbatim the text and images from the
2 *Latawyna Book*, onto certain CaféPress.com, Inc. novelty products
3 (hereinafter "*Latawyna Goods*"). CaféPress.com, Inc. identified
4 the *Latawyna Goods* by the product numbers as:

5 A) Baby Bibs - 135398314

6 B) Toddlers T Shirt - 135394930

7 C) Maternity Top - 135394938

8 D) Regular T-Shirts - 135396995

9 E) Junior Hoodies - 135398873

10 F) Women Track Suit - 135398874

11 G) T-Shirt - 135392296

12 H) Kids Baseball Jersey - 135394931

13 15. CaféPress.com, Inc. organized, distributed, and
14 coordinated the sale of *Latawyna Goods* through the
15 CaféPress.com, Inc. on-line shop located at
16 <https://www.cafepress.com/latawnya>. (See Exhibit 3).

17 16. The *Latawnya Goods* are imprinted with text and images
18 that are substantially similar and/or identical to the
19 copyrighted material in the *Latawnya Book*.

20 17. The *Latawnya Goods* are being commercially sold by
21 Defendant without the express or implied permission of the
22 Plaintiff. Therefore, Defendant's sale of the *Latawnya Goods* has
23 infringed the copyright of Plaintiff and Defendant continued to
24 infringe the copyright.

25 18. By reason of the foregoing, Plaintiff has been injured
26 in an amount as yet to be ascertained, including, but not
27 limited to profits from the sale of the infringing goods by
28 CaféPress.com, Inc. from their on-line store. Defendant's have

1 willfully infringed and enabled others to willfully infringe Ms.
2 Gibson's exclusive rights in the *Latawnya Book*.

3
4 Count II - Unfair Competition and False Advertising

5 19. Paragraphs 1 to 18 are incorporated herein by
6 reference.

7 20. This claim arises under the common law of this state
8 relating to trademark infringement and unfair competition.

9 21. Plaintiff is the owner of all right title and interest
10 in the mark "*Latawnya*" mark in connection with the graphical
11 "Naughty Horse" and other characters set forth in the preceding
12 paragraphs.

13 22. Defendant, in connection with the sale of the *Latawnya*
14 *Goods* is a false and deceptive business practice. Such conduct
15 is likely to create consumer confusion and mistake in the minds
16 of trade and the purchasing public as to the source of the
17 products and to cause purchasers to believe that such products
18 are authentic products of Plaintiff when, in fact, they are not.

19 23. Defendant is also trading upon the reputation and
20 goodwill attributed to the *Latawnya* mark and impairing
21 Plaintiff's exploitation of the *Latawnya* mark. Defendant has
22 acted fraudulently and in bad faith and in conscious disregard
23 of Plaintiff's rights and entitled to exemplary and punitive
24 damages in an amount sufficient to punish and deter the
25 Defendant.

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1 PRAYER FOR RELIEF

2 WHEREFORE, Plaintiff prays judgment against Defendants jointly
3 and severally as follows:

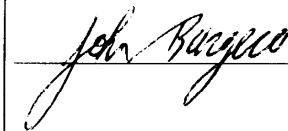
- 4 1. For actual damages according to proof.
5 2. For punitive damages as this Court will see fit.
6 3. For reasonable attorney fees.
7 4. For costs of suit as allowable by law.
8 5. For statutory damages as allowable by law.
9 6. For preliminary and permanent injunction enjoining
10 defendant and its agents, servants, employees, and all persons
11 acting under, in concert with, or for it to publish any words or
12 images from the book "Latawnya the Naughty Horse learns to say
13 no to drugs" on any intangible or tangible products.
14 7. For such other relief as the Court deems just and
15 proper.

16
17 Dated: March 31, 2009

18 
19 John E. Bargero, Attorney for the Plaintiff
20

21 DEMAND FOR JURY TRIAL

22 Plaintiff demands a jury trial as provided by Rule
23 38(a) of the Federal Rules of Civil Procedure.
24

25 
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27 John E. Bargero, Attorney for the Plaintiff

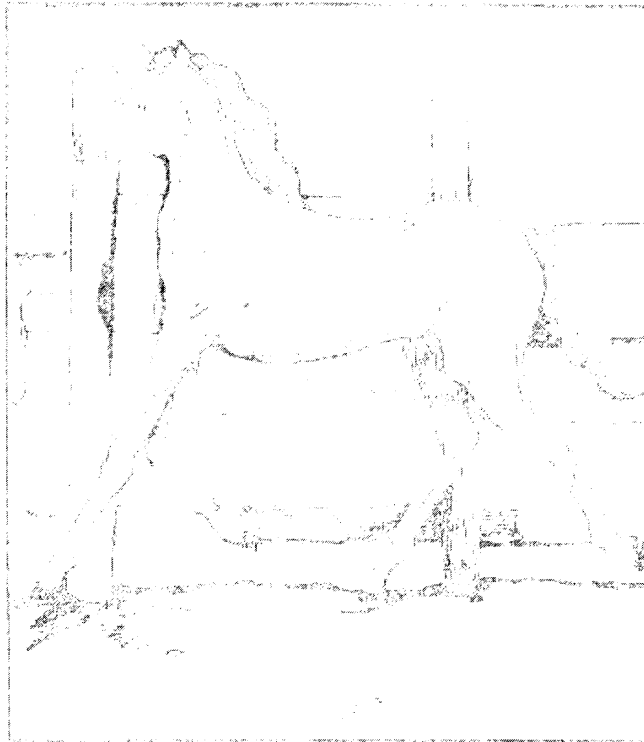
28 Dated: March 31, 2009

COMPLAINT FOR COPYRIGHT INFRINGEMENT

EXHIBIT 1

Book

**LATAWNYA,
the Naughty Horse,
Learns to Say
“No” to Drugs**



Sylvia Scott Gibson

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EXHIBIT 2

Copyright Registration TX 393-842

113 227 927

CHECKED BY

☐ CORRESPONDENCE

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No. If your answer is "Yes," was any other registration being sought? Check appropriate box: ☐

☐ This is the first published edition of a work previously registered in unpublished form.

☐ This is the first application submitted by this author as copyright claimant.

☐ This is a changed version of the work, as shown by space 9 on this application.

If your answer is "Yes," give Previous Registration Number:

Year of Registration:

DERIVATIVE WORK OR COMPILATION Complete both space 9a & 9b for a derivative work, complete only 9b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates:

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and to which copyright is claimed:

—space deleted—

REPRODUCTION FOR USE OF BLIND OR PHYSICALLY HANDICAPPED INDIVIDUALS

A signature on this form at space 10, and a

check in one of the boxes here in space 8, constitutes a non-exclusive grant of permission to the Library of Congress to reproduce and distribute solely for the blind and physically handicapped and under the conditions and limitations prescribed by the regulations of the Copyright Office: (1) copies of the work identified in space 1; (2) copies in Braille for similar tactile symbols; or (3) phonorecords embodying a fixation of a reading of that work, or (3) both.

a ☒ Copies and Phonorecords

b ☐ Copies Only

c ☐ Phonorecords Only

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account: Name: Account Number:

CORRESPONDENCE Give name and address to which correspondence about this application should be sent: Name: Address: City: State: Zip:

VANTAGE PRESS, INC

516 WEST 34TH ST

NEW YORK, NY 10001

Area Code & Telephone Number: 212 736-1767

CERTIFICATION I, the undersigned, hereby certify that I am the:

Check one: ☐

☐ author

☐ other copyright claimant

☐ owner of exclusive rights

☒ authorized agent of

SYLVIA SCOTT GIBSON

Name of author, other copyright claimant, or owner of exclusive rights:

If the work identified in this application and that the statements made in this application are correct to the best of my knowledge

Typed or printed name and date: If this application gives a date of publication in space 3, do not sign and submit it before that date.

HELEN T. LANE

date: 7/1/91

Handwritten signature (X):

MAIL CERTIFICATE TO

Certificate will be mailed in return envelope

| | |
|------------------|--------------------|
| Name | VANTAGE PRESS, INC |
| Address | 516 WEST 34TH ST |
| City, State, ZIP | NEW YORK, NY 10001 |

YOU MUST

- Complete all necessary spaces
- Sign your application in space 10

SEND ALL ELEMENTS IN THE SAME PACKAGE

1. Application form
2. Non-refundable \$10 filing fee in check or money order payable to Register of Copyrights
3. Deposit material

MAIL TO:
Register of Copyrights
Library of Congress
Washington, D.C. 20540

1. If the fee for this application is not paid, the Copyright Office will not process the application. 2. If the fee for this application is not paid, the Copyright Office will not process the application. 3. If the fee for this application is not paid, the Copyright Office will not process the application.

EXHIBIT 3

Cafepress.com Website

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COMPLAINT FOR COPYRIGHT INFRINGEMENT

cafepress

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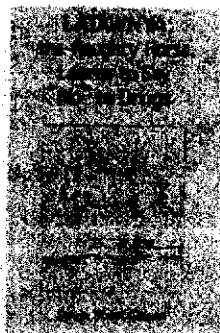
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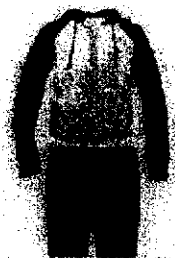
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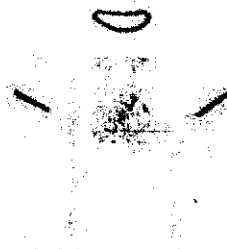
So "No Way" to drinking and smoking drugs by wearing
Latawnya fashion wear.

Apparel

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Latawnya Women's Tracksuit
\$62.99



MORE COLORS AVAILABLE
Latawnya T-Shirt: front and back
\$18.99



MORE COLORS AVAILABLE
Latawnya Maternity T-Shirt
\$27.99



Latawnya T-Shirt: front and back
\$18.99



Latawnya Jr. Hoodie
\$28.99

[Baby](#)

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MORE COLORS AVAILABLE
Latawnya Kids Baseball Jersey
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Latawnya Bib
\$6.99

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